

**BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN**

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Joint Application of Wisconsin Power and Light  
Company and Wisconsin Electric Power Company  
For Certificate of Authority for Edgewater Generating  
Station Unit 5 NOx Reduction Project

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Docket No. 05-CE-137

**THE CITIZENS UTILITY BOARD'S AND CLEAN WISCONSIN'S  
REQUEST TO INTERVENE AND NOTICE OF APPEARANCE**

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Pursuant to Wis. Admin. Code § PSC 2.21, the Citizens Utility Board ("CUB") and Clean Wisconsin hereby file their requests to intervene in the above-captioned matter. CUB's and Clean Wisconsin's attorneys also file a Notice of Appearance.

**I. CUB'S REQUEST TO INTERVENE.**

CUB has more than 9,000 members, primarily citizens of Wisconsin. CUB was originally created by the Wisconsin legislature under Chapter 72, Laws of 1979, to advocate on behalf of residential and other customers on utility issues. CUB subsequently reorganized and is currently a nonstock, nonprofit corporation organized and existing under Wis. Stat. ch. 181.

CUB's purpose as stated in its bylaws is to:

1) provide public interest legal services to ensure effective and democratic representation of residential, farm and small business utility customers before regulatory agencies and the courts; 2) advocate for reliable, affordable, and sound utility service; 3) educate consumers on utility service through the preparation, compilation, analysis, and dissemination of information and resource materials relating to utility regulation and public energy and telecommunications policy, and generally engage in and support public education regarding utility regulation and public energy and telecommunications policy.

CUB Bylaws, Article III. CUB intends that its advocacy benefit not just its own members but all residential ratepayers of the state.

CUB's members include residential, farm and small business customers of Wisconsin Power and Light Company ("WPL") and Wisconsin Electric Power Company ("WEPCO") (collectively "Joint Utilities"). CUB and its members have a substantial interest that will be affected by a decision in this proceeding. *See* Wis. Stat. § 227.44(2m) and Wis. Admin. Code § PSC 2.21(1); *see also Wisconsin's Environmental Decade, Inc. v. PSC*, 69 Wis. 2d 1, 20, 230 N.W.2d 243 (1974). Specifically, the Joint Utilities proposed \$154 million project at Edgewater 5 will increase their rates, directly impacting CUB and its members. CUB members have a right to inquire and contest the reasonableness of this investment in comparison to alternatives. Alternatively, CUB's participation in the proceeding will promote the proper disposition of the issues to be determined and will not impede the timely completion of the docket. Wis. Admin. Code § PSC 2.21(2).

In addition to the above reasons, CUB should also be allowed to participate in this matter on the basis of its purpose and historic origin. In 1979, the Legislature created CUB to, among other things, represent the rights of individual ratepayers at hearings before administrative agencies. *See* Wis. Stat. § 199.02. Although CUB is currently incorporated as a nonstock, nonprofit corporation, its purpose remains the same, and more importantly, has been found to alone create standing for CUB in proceedings such as the one at bar. *See Application of the Wisconsin Power and Light Company, as an Electric, Water and Natural Gas Public Utility, to Change Electric, Water and Natural Gas Rates*, Docket No. 6680-UR-112, Motion Hearing of September 25, 2002, Tr. at 3-6.

## **II. CLEAN WISCONSIN'S REQUEST TO INTERVENE.**

Clean Wisconsin is a nonprofit section 501(c)(3) organization that works to protect

Wisconsin's air and water and advocate for clean energy. Founded in 1970 as Wisconsin's Environmental Decade, Clean Wisconsin has 10,000 members statewide and has been a full party in many Public Service Commission proceedings. Many of Clean Wisconsin's members live and work in WPL's and WEPCO's service territories.

Clean Wisconsin's members have a substantial interest in, and will be affected by decisions that are made by the Joint Utilities and the Commission regarding the appropriateness of installing nitrogen oxide emission controls as proposed by the Joint Utilities at Edgewater 5. *See* Wis. Stat. § 227.44(2m) and Wis. Admin. Code § PSC 2.21(1); *see also* Wisconsin's *Environmental Decade, Inc. v. PSC*, 69 Wis. 2d 1, 20, 230 N.W.2d 243 (1974). Alternatively, Clean Wisconsin's participation in the proceeding will promote the proper disposition of the issues to be determined and will not impede the timely completion of the docket. Wis. Admin. Code § PSC 2.21(2).

### **III. NOTICE OF APPEARANCE ON BEHALF OF CUB AND CLEAN WISCONSIN.**

CWPB hereby files its Notice of Appearance on behalf of CUB and Clean Wisconsin in the above-captioned proceeding. All further documents and correspondence should be served on:

Kira E. Loehr  
Cullen Weston Pines & Bach LLP  
122 West Washington Avenue, Suite 900  
Madison, WI 53703  
(608) 251-0101 phone  
(608) 251-2883 fax  
[loehr@cwpb.com](mailto:loehr@cwpb.com)

CUB and Clean Wisconsin further request that all documents and correspondence also be served on:

Dennis Dums  
Citizens Utility Board  
16 North Carroll Street, Suite 530  
Madison, WI 53703  
(608) 251-3322 phone  
(608) 251-7609 fax  
[dums@wiscub.org](mailto:dums@wiscub.org)

Katie Nekola  
Clean Wisconsin  
122 State Street, Ste. 200  
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Including Mr. Dums and Ms. Nekola on the service list would greatly assist CUB and Clean Wisconsin in monitoring the case, coordinating with expert consultants and participating in any proceedings scheduled by the Commission.

Dated this 18<sup>th</sup> day of December, 2008.

Respectfully submitted,

CULLEN WESTON PINES & BACH LLP

*/s/ Kira E. Loehr*

By:

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